

October 2, 2002

Mr. George B. Stramback
General Electric Company
Project Manager, Regulatory Services
175 Curtner Avenue
San Jose, CA 95125

SUBJECT: REQUEST FOR WITHHOLDING INFORMATION FROM PUBLIC DISCLOSURE
RIVER BEND STATION, UNIT 1 (TAC NO. MB5094)

Dear Mr. Stramback:

By application dated May 14, 2002, Entergy Operations, Inc., requested an amendment for the River Bend Station, Unit 1 (RBS) operating license, proposing revisions to the license and Technical Specifications to allow operation at a higher power level. That request included your affidavit dated May 7, 2002, requesting that General Electric Company (GE or General Electric) Report NEDC-33051P, "Safety Analysis Report for River Bend Station Thermal Power Optimization," dated May 2002, be withheld from public disclosure pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) Section 2.790. A nonproprietary copy of this document, transmitted by letter dated July 9, 2002, has been placed in the Nuclear Regulatory Commission's (NRC's) Public Document Room and added to the Agencywide Documents Access and Management System Public Electronic Reading Room.

The affidavit stated that the submitted information should be considered exempt from mandatory public disclosure for the following reasons:

- a. Information that discloses a process, method, or apparatus, including supporting data and analyses, where prevention of its use by General Electric's competitors without license from General Electric constitutes a competitive economic advantage over other companies;
- b. Information which, if used by a competitor, would reduce his expenditure of resources or improve his competitive position in the design, manufacture, shipment, installation, assurance of quality, or licensing of a similar product.

We have reviewed your application and all of the supporting information in accordance with the requirements of 10 CFR 2.790 and have concluded that you have not provided sufficient justification for us to determine that the information sought to be withheld from public disclosure contains proprietary, or confidential commercial or financial information. Specifically, NEDC-33051P contains numerous instances where information that is sought to be withheld is known to have already been disclosed to the public. As an example, GE claims that the following material (page 3-2 of NEDC-33051P) is proprietary:

The reactor vessel material surveillance program consists of three capsules. The three capsules have been in the reactor vessel since plant startup. One of these capsules was removed after 10.08 EFPY [effective full-power years] of operation, the second capsule is scheduled to be removed at 15 EFPY, and the third capsule is classified as "standby."

This material is also contained in the River Bend Station, Unit 1, (RBS) Updated Safety Analysis Report (USAR), Section 5.3.1.6, "Material Surveillance," which has been made public.

In a second example, GE claims that the following material (page 8-1 of NEDC-33051P) is proprietary:

Building ventilation systems control airborne radioactive gases by using devices such as High Efficiency Particulate Air (HEPA) and charcoal filters, and radiation monitors that activate isolation dampers or trip supply and exhaust fans, or by maintaining negative or positive air pressure to limit migration of gases.

The above material is contained in the RBS USAR, Section 9.4.2, "Fuel Building Ventilation System," which has been made public. There are other examples of material in the report that are claimed to be proprietary, but are well known in the industry and have been made public. Accordingly, the NRC staff does not agree that these statements contain trade secrets or privileged or confidential commercial information in accordance with 10 CFR 2.790(b)(4)(iv).

In addition, since (1) boiling water reactor licensees, without GE assistance, have been granted small power increases similar to the update requested for RBS, with only limited information withheld from public disclosure, and (2) Regulatory Issue Summary 2002-13, "Guidance on the Content of Measurement Uncertainty Recapture Power Uprate Applications," dated January 31, 2002, is publicly available, the NRC concludes that the process described in NEDC-33051P can be acquired or duplicated with relative ease and thus should not be withheld from public disclosure per 10 CFR 2.790(b)(4)(v).

Moreover, as noted in paragraph (8) of your May 7, 2002, affidavit, the remainder of NEDC-33051P (that portion of the report not delineated with bars marked in the margins) is claimed to be proprietary because it constitutes a confidential compilation of information. Since the non-proprietary version of NEDC-33051 contains inadequate information to support the proposed RBS power uprate, and because the NRC staff cannot confidently divulge any part of NEDC-33051P, the NRC staff concludes that it cannot inform the public as to the bases, if any, for approval of the proposed power uprate.

Accordingly, we have concluded that the information sought to be withheld from public disclosure does not meet the requirements of 10 CFR 2.790. Therefore, your request to withhold NEDC-33051P from public disclosure is denied. Should you decide to resubmit NEDC-33051P, we request that you limit the scope of the information that you seek to withhold from public disclosure to those pieces of information that strictly meet the requirements of 10 CFR 2.790. In addition, should you decide to resubmit NEDC-33051P, we request that the companion non-proprietary report be a simple redaction of NEDC-33051P.

Within 30 days from the date of this letter, the subject documents will be placed in the Public Document Room. If, within 30 days of the date of this letter, you request withdrawal of the

documents in accordance with 10 CFR 2.790(c), your request will be considered in light of applicable statutes and regulations, and a determination made whether the documents will be withheld from public disclosure and returned to you.

If you have any questions regarding this matter, I may be reached at 301-415-1347.

Sincerely,

/RA/

Michael K. Webb, Section 1
Project Directorate IV
Division of Licensing Project Management
Office of Nuclear Reactor Regulation

Docket No. 50-458

cc: See next page

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March 2002